

Date Mailed August 21, 2003

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Excel Telecommunications, Inc., for Certification as a
Competitive Local Exchange Carrier and Alternative Telecommunications 7081-NC-100
Utility

NOTICE OF REOPENING AND ORDER MODIFYING INTERIM CONDITION

In an order dated February 28, 2002, in the above-referenced docket, the Commission authorized Excel Telecommunications, Inc. (Excel), as a competitive local exchange carrier, with interim conditions. Such order, among other conditions, subjected Excel to the provisions of Wis. Stat. §§ 196.85, direct and remainder assessment, and 196.858, telephone relay assessment. The Commission subsequently closed this docket.

At its open meeting of August 20, 2003, the Commission determined that it is reasonable and necessary to reopen this docket to address a pending request from Excel concerning reporting and assessment treatment for its Commercial Mobile Radio Service (CMRS) revenues.

By letter dated August 5, 2003, Excel filed an affidavit with the Commission stating in part the following:

1. Excel provides wireless and paging services to customers in the state of Wisconsin as a pure reseller of CMRS providers. As CMRS providers are not subject to the jurisdiction of the Commission, per Wis. Stat. § 196.202, Excel's wireless and paging operations as a reseller are likewise not regulated by the Commission.

2. In 2002, \$1,318,544 of Excel's gross operating telecommunications revenues as requested in the 2002 Alternative Telecommunications Utility-Other Telecommunications

Provider (OTH) annual report were derived from wireless and paging services provided to customers in Wisconsin.

3. Excel requests that the Commission grant a waiver of the company's obligation to report CMRS revenues in the annual report for 2002 and future years for as long as Excel remains a CMRS reseller. The company requests special and individual consideration since Excel provides its wireless and paging services as a reseller of CMRS providers.

The Commission determines that, pursuant to Wis. Stat. § 196.202, it does not regulate retail providers of CMRS, nor does it regulate resellers of such service.

Under Wis. Stat. § 196.203(3), the Commission may impose any provision of Wis. Stat. chs. 196 or 201 on the certification of an alternative telecommunications utility as necessary to protect the public interest. The Commission also retains jurisdiction pursuant to Wis. Stat. § 196.39(1) to modify or amend regulatory provisions applicable to Excel as set forth in the Commission's order dated February 28, 2002, in this same docket.

Normally, CMRS revenues would be subject to remainder and telephone relay assessments, absent a request for special and individual consideration. Based on its analysis of Excel's August 5, 2003, affidavit, the Commission grants, under Wis. Stat. § 196.203(3), a modification of the interim condition imposing Wis. Stat. §§ 196.85 and 196.858. Specifically, those statutes will not apply to subject Excel's wireless and paging (i.e., CMRS) revenues to remainder and telephone relay assessment calculation purposes for 2002 and in future report years.

Excel's reporting and assessment exemption for CMRS revenues shall remain in effect absent a Commission determination, via a separate decision or rulemaking, that CMRS revenues shall be subject to remainder and telephone relay assessments for this company.

ORDER

1. Excel remains subject to Wis. Stat. §§ 196.85 and 196.858, but its CMRS revenues for years 2002 and after shall not be subject to assessment under those statutes.
2. All other provisions of the Commission's order dated February 28, 2002, in this docket remain unchanged.
3. Jurisdiction is retained.

Dated at Madison, Wisconsin, _____

By the Commission:

Lynda L. Dorr
Secretary to the Commission

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See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98